



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-1084]

RIN 1625-AA00

Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to amend and establish regulations requiring safety zones for firework events that take place annually within the Captain of the Port Zone Buffalo. This proposed rule is intended to amend and establish restrictions on vessel access to designated areas on U.S. navigable waterways during certain fireworks displays. The safety zones amended and established by this proposed rule are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

DATES: Comments and related material must be received by the Coast Guard on or before **[30 days from publication in the FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-1084 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone (716) 843-9573, e-mail SectorBuffaloMarineSafety@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2012-1084] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-1084) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a

Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On June 18, 2008, the Coast Guard put 33 CFR 165.939 into effect, which established several permanent safety zones within U.S. navigable waters under the jurisdiction of the Captain of the Port Buffalo (73 FR 28704). Specifically, twenty-six permanent safety zones were established then. These safety zones were put in place to protect the boating public from hazards associated with annually recurring fireworks displays that take place over U.S. navigable waterways. Since those twenty-six safety zones were established in June of 2008, the Coast Guard has not amended 33 CFR 165.939. This NPRM was not preceded by an Advance Notice of Proposed Rulemaking (ANPRM), and thus no public comments have yet to be received.

C. Basis and Purpose

As stated above, 33 CFR 165.939 currently lists twenty-six permanent safety zones within the Captain of the Port Zone

Buffalo. Each of these twenty-six safety zones corresponds to an annually recurring fireworks display. During a recent review of 33 CFR 165.939, it was determined that event details for seventeen recurring fireworks displays have changed, seven additional recurring fireworks displays now require that permanent safety zones be implemented, and four permanent safety zones require disestablishment because the corresponding fireworks displays have not occurred for an extended time. In addition, it was noted that the coordinates for the safety zones corresponding with the Browns Football Half time Fireworks and the Lorain Port Fest Fireworks are formatted differently than the other safety zones. Finally, it was noted that the radius of the safety zone associated with the Lorain Port Fest Fireworks is in yards as opposed to feet. With the above findings in mind, the Coast Guard proposes to amend 33 CFR 165.939 to disestablish four safety zones; to revise the enforcement period, the size, and the location of seventeen other safety zones; and to establish seven new safety zones. Likewise, this proposed rule will amend the Browns Football Half time and the Lorain Port Fest safety zones, to include changing the format of the coordinates and the radius size from yards to feet. The Captain of the Port Buffalo has determined that this proposed amendment is necessary to protect spectators and participants from the hazards associated with maritime fireworks displays.

D. Discussion of Proposed Rule

For all of the above reasons, the Captain of the Port Buffalo proposes to amend 33 CFR 165.939. Specifically, this proposed rule will revise § 165.939 in its entirety. This revision will include modifications made to the size, location, and enforcement period for seventeen safety zones, the disestablishment of four safety zones, two technical amendments, and the establishment of seven additional safety zones. In total, after this proposed rule goes into effect, 33 CFR 165.939 will contain a total of twenty-nine permanent safety zones. Although this proposed rule will remain in effect year round, the safety zones within it will be enforced only immediately before, during, and after each corresponding event.

The Captain of the Port Buffalo will use all appropriate means to notify the public when the zones in this proposal will be enforced. Consistent with 33 CFR 164.7(a), such means of may include, among other things, publication in the **Federal Register** and Broadcast Notice to Mariners notifying the public when enforcement of a safety zone in this section is cancelled.

Entry into, transiting, or anchoring within the proposed safety zones is prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

E. Regulatory Analyses

We developed this proposed rule after considering numerous

statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones contained in this proposed rule will be relatively small and enforced for relatively short time. Also, the safety zones are designed to minimize their impact on navigable waters. Furthermore, the safety zones have been designed to allow vessels to transit around them. Thus, restrictions on vessel movement within the particular areas are expected to be minimal. Under certain conditions, moreover,

vessels may still transit through a safety zone when permitted by the Captain of the Port Buffalo.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in any one of the below safety zones while the safety zone is being enforced. The below safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: each safety zone in this proposed rule will be in effect for only a few hours within any given 24 hour period. Each of the safety zones will be in effect only once per year. Furthermore, these safety zones have been designed to allow traffic to pass safely around each zone. Moreover, vessels will be allowed to pass through each zone at the discretion of the Captain of the Port Buffalo, or his or her designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment

and disestablishment of safety zones and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a preliminary Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.939 to read as follows:

§ 165.939 Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone.

(a) *Safety Zones.* The following are designated as safety zones:

(1) *Boldt Castle 4th of July Fireworks, Heart Island, NY*

(i) *Location.* All U.S. waters of the Saint Lawrence River

within a 1,120 foot radius of land position 44°20'38.5"N, 075°55'19.1"W (NAD 83) at Heart Island, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 10:30 p.m. on July 4 of each year.

(2) *Clayton Chamber of Commerce Fireworks, Calumet Island, NY*

(i) *Location.* All U.S. waters of the Saint Lawrence River within an 840 foot radius of land position 44°15'04"N, 076°05'40"W (NAD 83) at Calumet Island, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:30 p.m. on July 3 of each year.

(3) *French Festival Fireworks, Cape Vincent, NY*

(i) *Location.* All U.S. waters of the Saint Lawrence River within an 840 foot radius of land position 44°07'54.6"N, 076°20'01.3"W (NAD 83) in Cape Vincent, NY.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on the second weekend of July each year.

(4) *Lyme Community Days, Chaumont, NY*

(i) *Location.* All U.S. waters of Chaumont Bay within a 560 foot radius of position 44°04'06.3"N, 076°08'56.8"W (NAD 83) in Chaumont, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 11:00 p.m. on the fourth weekend of July each year.

(5) *Village Fireworks, Sackets Harbor, NY*

(i) *Location.* All U.S. waters of Black River Bay within an 840 foot radius of position 43°56'51.9"N, 076°07'46.9"W (NAD 83)

in Sackets Harbor, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 10:30 p.m. on July 4 each year.

(6) *Can-Am Festival, Sackets Harbor, NY*

(i) *Location.* All U.S. waters of Black River Bay within a 1,120 foot radius of position 43°57'15.9"N, 076°06'39.2"W (NAD 83) in Sackets Harbor, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:45 p.m. on the third weekend of July each year.

(7) *Oswego Harborfest, Oswego, NY*

(i) *Location.* All U.S. waters of Lake Ontario within a 1,000 foot radius of position 43°28'10"N, 076°31'04"W (NAD 83) in Oswego, NY.

(ii) *Enforcement Date and Time.* From 9:00 to 10:30 p.m. on the last Saturday of July each year.

(8) *Brewerton Fireworks, Brewerton, NY*

(i) *Location.* All U.S. waters of Lake Oneida within an 840 foot radius of barge position 43°14'16.4"N, 076°08'03.6"W (NAD 83) in Brewerton, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on July 3 of each year.

(9) *Celebrate Baldwinsville Fireworks, Baldwinsville, NY*

(i) *Location.* All U.S. waters of the Seneca River within a 700 foot radius of land position 43°09'24.9"N, 076°20'18.9"W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:00 p.m. on the first weekend of July each year.

(10) *Island Festival Fireworks, Baldwinsville, NY*

(i) *Location.* All U.S. waters of the Seneca River within a 1,120 foot radius of land position 43°09'22"N, 076°20'15"W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on the first weekend of July each year.

(11) *Seneca River Days, Baldwinsville, NY*

(i) *Location.* All U.S. waters of the Seneca River within an 840 foot radius of land position 43°09'25"N, 076°20'21"W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on the second weekend of July each year.

(12) *City of Syracuse Fireworks Celebration, Syracuse, NY*

(i) *Location.* All U.S. waters of Onondaga Lake within a 350 foot radius of land position 43°03'37"N, 076°09'59"W (NAD 83) in Syracuse, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 10:30 p.m. on the last weekend of June each year.

(13) *Tom Graves Memorial Fireworks, Port Bay, NY*

(i) *Location.* All U.S. waters of Port Bay within an 840 foot radius of barge position 43°18'14.8"N, 076°50'17.3"W (NAD 83) in Port Bay, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m.

on July 3 of each year.

(14) *Village Fireworks, Sodus Point, NY*

(i) *Location.* All U.S. waters of Sodus Bay within a 1,120 foot radius of land position 43°16'28.7"N, 076°58'27.5"W (NAD 83) in Sodus Point, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 10:30 p.m. on July 3 of each year.

(15) *Rochester Harbor and Carousel Festival, Rochester, NY*

(i) *Location.* All U.S. waters of Lake Ontario within a 1,120 foot radius of land position 43°15'40.2"N, 077°36'05.1"W (NAD 83) in Rochester, NY.

(ii) *Enforcement Date and Time.* From 8:00 p.m. to 10:00 p.m. on the fourth Monday of each year.

(16) *A Salute to our Heroes, Hamlin Beach State Park, NY*

(i) *Location.* All U.S. waters of Lake Ontario within a 560 foot radius of land position 43°21'51.9"N, 077°56'59.6"W (NAD 83) in Hamlin, NY.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 11:30 p.m. on the first weekend of July each year.

(17) *Olcott Fireworks, Olcott, NY*

(i) *Location.* All U.S. waters of Lake Ontario within a 1,120 foot radius of land position 43°20'23.6"N, 078°43'09.5"W (NAD 83) in Olcott, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on July 3 of each year.

(18) *North Tonawanda Fireworks, North Tonawanda, NY*

(i) *Location.* All U.S. waters of the East Niagara River within a 1,400 foot radius of land position 43°01'39.6"N, 078°53'07.5"W (NAD 83) in North Tonawanda, NY.

(ii) *Enforcement Date and Time.* From 8:45 p.m. to 10:15 p.m. on July 4 of each year.

(19) *Tonawanda's Canal Fest Fireworks, Tonawanda, NY*

(i) *Location.* All U.S. waters of the East Niagara River within a 210 foot radius of land position 43°01'17.8"N, 078°52'40.9"W (NAD 83) in Tonawanda, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on the fourth Sunday of July each year.

(20) *Celebrate Erie Fireworks, Erie, PA*

(i) *Location.* All U.S. waters of Presque Isle Bay within an 800 foot radius of land position 42°08'19"N, 080°05'29"W (NAD 83) in Erie, PA.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 10:30 p.m. on the third weekend of August each year.

(21) *Conneaut Fourth of July Fireworks, Conneaut, OH*

(i) *Location.* All U.S. waters of Lake Erie within an 840 foot radius of position 41°58'01.3"N, 080°33'39.5"W (NAD 83) in Erie, PA.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:30 p.m. on the first Sunday of July each year.

(22) *Fairport Harbor Mardi Gras, Fairport, OH*

(i) *Location.* All U.S. waters of Lake Erie within a 350 foot radius of land position 41°45'30"N, 081°16'18"W (NAD 83) east of the harbor entrance at Fairport Harbor Beach, OH.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. at the beginning of the second week of July each year.

(23) *Mentor Harbor Yacht Club Fireworks, Mentor Harbor, OH*

(i) *Location.* All U.S. waters of Lake Erie and Mentor Harbor within a 700 foot radius of land position 41°43'36"N, 081°21'09"W (NAD 83) in Mentor Harbor, OH.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on July 3 of each year.

(24) *Browns Football Halftime Fireworks, Cleveland, OH*

(i) *Location.* All U.S. waters of Cleveland Harbor and Lake Erie beginning in approximate land position 41°30'49.4"N, 081°41'37.2"W (the northwest corner of Burke Lakefront Airport); continuing northwest to 41°31'10.6"N, 081°41'53.0"W; then southwest to 41°30'48.6"N, 081°42'30.9"W (the northwest corner of dock 28 at the Cleveland Port Authority) then northeast back to the starting point at 41°30'49.4"N, 081°41'37.2"W (NAD 83).

(ii) *Enforcement Date and Time.* On a Sunday during the second or third Cleveland Browns home game each year.

(25) *City of Cleveland 4th of July, Cleveland, OH*

(i) *Location.* All U.S. waters of Lake Erie and Cleveland Harbor within a 1,000 foot radius of land position 41°30'10"N, 081°42'36"W (NAD 83) at Dock 20 in Cleveland, OH.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on July 4 of each year.

(26) *Cleveland Yachting Club Fireworks Display, Rocky River, OH*

(i) *Location.* All U.S. waters of the Rocky River and Lake Erie within a 560 foot radius of land position 41°29'25.7"N, 081°50'18.5"W (NAD 83), at Sunset Point on the western side of the mouth of the Rocky River in Cleveland, OH.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on the second Thursday of July each year.

(27) *Sheffield Lake Fireworks, Sheffield Lake, OH*

(i) *Location.* All U.S. waters of Lake Erie within a 700 foot radius of land position 41°29'26.2"N, 082°06'47.7"W (NAD 83), at the lake front area in Sheffield Lake, OH.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on the second Friday of July each year.

(28) *Lorain 4th of July Celebration Fireworks, Lorain, OH*

(i) *Location.* All U.S. waters of Lorain Harbor within a 1,400 foot radius of land position 41°28'35.5"N, 082°10'51.3"W (NAD 83), east of the harbor entrance on the end of the break wall near Spitzer's Marina.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on July 4 of each year.

(29) *Lorain Port Fest Fireworks Display, Lorain, OH*

(i) *Location.* All U.S. waters of Lorain Harbor within a 750

foot radius of land position 41°28'02.4"N, 082°10'21.9"W (NAD 83) in Lorain, OH.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 11:00 p.m. on the third weekend of July each year.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Buffalo to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) *Public vessels* means vessels owned, chartered, or operated by the United States or by a State or political subdivision thereof.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within any of the safety zones contained in this section during a period of enforcement is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2)(i) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port or his designated representative.

(ii) All persons and vessels must comply with the

instructions of the Captain of the Port Buffalo or his designated representative.

(iii) Upon being hailed by the Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3)(i) All vessels must obtain permission from the Captain of the Port or his designated representative to enter or move within any safety zone established in this section when the safety zone is enforced.

(ii) Vessels and persons granted permission to enter a safety zone must obey all lawful orders or directions of the Captain of the Port or a designated representative.

(iii) While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

(d) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* Upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical, the Captain of the Port Buffalo or his designated representative may waive any of the requirements of this section for any vessel.

(f) *Notification.* The Captain of the Port Buffalo will notify the public when the zones in this section will be enforced by all appropriate means. In keeping with 33 CFR 165.7(a), such means of notification may include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners and publication of Notices of Enforcement in the Federal Register. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

Dated: January 11, 2013

S. M. WISCHMANN
Captain, U. S. Coast Guard
Captain of the Port Buffalo

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Date: 02/20/2013]